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E-filing

Attorneys for Federal Defendants
United States Army National Guard (California);
Battery S, 143rd Field Artillery

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

EMC

SHANNON O. MURPHY,

Plaintiff,

v.

UNITED STATES ARMY NATIONAL
GUARD (CALIFORNIA); BATTERY S, 143RD
FIELD ARTILLERY,

Defendants.

CV Case No. 08

0763

NOTICE OF REMOVAL

TO: Clerk, Superior Court of California
County of Contra Costa
725 Court Street
Martinez, CA 94553

Mr. Shannon O. Murphy
General Delivery
El Cerrito, California 94530

PLEASE TAKE NOTICE that on this day Case No. CGC-07-465693 pending in the Contra
Costa Superior Court is being removed to the United States District Court for the Northern District of
California, pursuant to 28 U.S.C. §§ 1441(a), 1441(b), 1441(f), and 1442(a)(1), on behalf of federal

NOTICE OF REMOVAL
Murphy v. U.S. Army, et al.

1 defendants United States Army National Guard (California), and Battery S, 143rd Field Artillery. Upon
2 direction by the Attorney General of the United States and pursuant to 28 U.S.C. § 1446, the
3 undersigned attorneys hereby present the following facts to the Judges of the United States District Court
4 for the Northern District of California.

5 1. On September 18, 2007, plaintiff Shannon O. Murphy filed a Complaint in Contra Costa
6 County Superior Court against United States Army National Guard (California), and Battery S, 143rd
7 Field Artillery.

8 2. Plaintiff is suing the United States Army National Guard (California), and Battery S, 143rd
9 Field Artillery for several causes of action that include fraud, kidnaping, discrimination, and child abuse.
10 Plaintiff seeks \$3,000,000 in damages.

11 3. On or about January 23, 2007, the United States Attorney's Office received a copy of the
12 Summons and Complaint from the United States Army Litigation Division. Copies of the Summons and
13 Complaint are attached as Exhibit A pursuant to 28 U.S.C. § 1446(a), which constitutes the only process,
14 pleading, or order which has been received. The United States Attorney's Office has not yet been served
15 as required by Rule 4, Fed.R.Civ.Proc.

16 4. Removal of this action to the United States District Court is made pursuant to 28 U.S.C.
17 §§ 1441(a), 1441(b), 1441(f), and 1442(a)(1) because plaintiff seeks monetary damages from a federal
18 agency. The United States of America is the only party who may be sued in a tort action involving a
19 federal agency. Original and exclusive jurisdiction lies in a federal forum under 28 U.S.C. § 1331 (civil
20 actions arising under the Constitution, laws or treaties of the United States), and the Federal Tort Claims
21 Act, 28 U.S.C. §§ 1346, 2671, et seq.

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28 NOTICE OF REMOVAL
Murphy v. U.S. Army, et al.

1 5. A copy of this Notice is being filed with the Clerk of the Contra Costa County Superior Court,
2 which will effect the removal of the action in its entirety to this Court for all further proceedings
3 pursuant to 28 U.S.C. § 1446(d).

4 Respectfully submitted,

5 JOSEPH P. RUSSONIELLO
6 United States Attorney

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8 Dated: January 31, 2008

By:

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ABRAHAM A. SIMMONS
Assistant United States Attorney

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28 NOTICE OF REMOVAL
Murphy v. U.S. Army, et al.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: **UNITED STATES ARMY NAT'L GUARD**
(AVISO AL DEMANDADO): **(California); Battery S, 143rd Field Artillery**

YOU ARE BEING SUED BY PLAINTIFF: **Shannon O. Murphy**
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SUM-100

FILED

2007 SEP 18 P 2:04

BY: **C. Green, Clerk**

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: **Superior Court of California**
(El nombre y dirección de la corte es): **County of Contra Costa**
725 Court St.
Martinez, Ca. 94553

CASE NUMBER:
(Número del Caso) **C 07 - 02064**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Shannon O. Murphy
General Delivery
El Cerrito Ca, 94530

C. Green

DATE:
(Fecha)

SEP 18 2007

CLERK OF THE COURT, by
SUPERIOR COURT

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

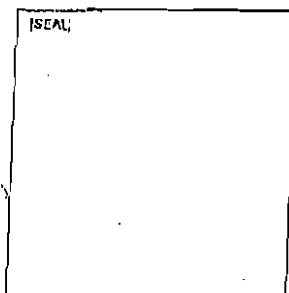
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

- 4 ☐ by personal delivery on (date):



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Mr. Shannon O. Murphy General Delivery El Cerrito, Ca. 94530 TELEPHONE NO: (510) 219-9180 FAX NO: N/A ATTORNEY FOR (Name): Shannon O. Murphy N/A (IN PROPER)		FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> 2007 SEP 18 P 2:04 BY: _____	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Contra Costa STREET ADDRESS: 725 Court Street MAILING ADDRESS: P.O. Box 911 CITY AND ZIP CODE: MARTINEZ, CA 94553 BRANCH NAME: _____		CASE NAME: Murphy vs. (California) Battery, 143rd Field UNITED STATES ARMY NAT'L GUARD Battery, 143rd Field	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) <input type="checkbox"/> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: C 07-02064 JUDGE: _____ DEPT: _____	

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (15) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (08) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |

3. Type of remedies sought (check all that apply):

- a. ☒ monetary b. ☐ nonmonetary, declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): **1) Fraud, 2) Kidnapping, 3) Discrimination & 4) Child Abuse**

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **Sept. 13, 2007**

Shannon O. Murphy
(TYPE OR PRINT NAME)

Shannon O. Murphy
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <i>Mr. Shannon O. Murphy</i> <i>General Delivery</i> <i>El Cerrito, Ca. 94530</i>		FILED 8821(20) 2007 SEP 18 P 2:04 BY: <i>C. Green, Deputy Clerk</i>
TELEPHONE NO: <i>(510) 219-9180</i> FAX NO (Optional): <i>NA</i>		
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <i>Shannon O. Murphy (IN PROPER)</i>		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <i>Contra Costa</i> STREET ADDRESS: <i>725 Court St.</i> MAILING ADDRESS: CITY AND ZIP CODE: <i>Martinez, 94553</i> BRANCH NAME:		
PLAINTIFF: <i>Shannon O. Murphy</i>		
DEFENDANT: <i>UNITED STATES ARMY NAT'L GUARD (California); Battery S, 143rd Field Artillery</i> <input type="checkbox"/> DOES 1 TO _____		
CONTRACT <input checked="" type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (Number): <input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (Number):		
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		CASE NUMBER: C 07-02064 PER LOCAL RULE 5 THIS CASE IS ASSIGNED TO DEPT <i>20</i>

1. PLAINTIFF* (names): *Shannon O. Murphy*

alleges causes of action against DEFENDANT* (names): *UNITED STATES ARMY NAT'L GUARD (California); Battery S, 143rd Field Artillery*

2. This pleading, including attachments and exhibits, consists of the following number of pages: *3*

3. a. Each plaintiff named above is a competent adult

☐ except plaintiff (name):

☐ a corporation qualified to do business in California

☐ an unincorporated entity (describe):

☐ other (specify):

b. ☐ Plaintiff (name):

☐ has complied with the fictitious business name laws and is doing business under the fictitious name of (specify):

☐ has complied with all licensing requirements as a licensed (specify):

c. ☐ Information about additional plaintiffs who are not competent adults is shown in Complaint—Attachment 3c.

4. a. Each defendant named above is a natural person

☐ except defendant (name):

☐ a business organization, form unknown

☐ a corporation

☐ an unincorporated entity (describe):

☐ a public entity (describe):

☐ other (specify):

☐ except defendant (name):

☐ a business organization, form unknown

☐ a corporation

☐ an unincorporated entity (describe):

☐ a public entity (describe):

☐ other (specify):

SHORT TITLE:

Murphy vs U.S. ARMY
143rd Field Artillery

CASE NUMBER:

COMPLAINT—Contract

4. (Continued)

b. The true names and capacities of defendants sued as Does are unknown to plaintiff. ✓

c. ☒ Information about additional defendants who are not natural persons is contained in Complaint Attachment 4g. ^{HEREIN/ARMY} ^{AS FOLLOWS U.S.}

d. ☐ Defendants who are joined pursuant to Code of Civil Procedure section 382 are (names): ^{STANDARD OPERATIONAL PROCEDURE.}

5. ☐ Plaintiff is required to comply with a claims statute, and

a. ☐ plaintiff has complied with applicable claims statutes, or

b. ☐ plaintiff is excused from complying because (specify):

6. ☐ This action is subject to ☐ Civil Code section 1812.10 ☐ Civil Code section 2984.4.

7. This court is the proper court because

a. ☒ a defendant entered into the contract here.

b. ☒ a defendant lived here when the contract was entered into.

c. ☐ a defendant lives here now.

d. ☐ the contract was to be performed here.

e. ☒ a defendant is a corporation or unincorporated association and its principal place of business is here.

f. ☐ real property that is the subject of this action is located here.

g. ☐ other (specify):

8. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

☐ Breach of Contract

☐ Common Counts

☒ Other (specify): 1) Fraud; 2) Kidnapping; 3) Discrimination; 4) Child Abuse.

9. ☐ Other:

10. PLAINTIFF PRAYS for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. ☒ damages of: \$ 3,000,000.00

b. ☒ interest on the damages — NOT SPECIFIED

(1) ☐ according to proof

(2) ☐ at the rate of percent per year from (date):

c. ☐ attorney's fees

(1) ☐ of: \$

(2) ☐ according to proof.

d. ☐ other (specify):

11. ☒ The following paragraphs of this pleading are alleged on information and belief (specify paragraph numbers): ^{See Complaint -} ^{Attachment H.} ^(Intentional Tort)

Date: Sept. 13, 2007

Shannon C. Murphy
(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SHORT TITLE: <i>Murphy vs</i>	<i>U.S. ARMY 143rd Field Artillery</i>	CASE NUMBER:
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CAUSE OF ACTION Fraud Page _____

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

FR-1. Plaintiff (name): *SAC Shannon O. Murphy*

alleges that defendant (name): *U.S. ARMY, 143rd FA, 5 Battery - (Command)*

on or about (date): defrauded plaintiff as follows: *Misinstructed Service member*

FR-2. ☒ Intentional or Negligent Misrepresentation

a. Defendant made representations of material fact ☐ as stated in Attachment FR-2.a ☐ as follows:

b. These representations were in fact false. The truth was ☐ as stated in Attachment FR-2.b ☒ as follows:

c. When defendant made the representations, *INSTRUCTIONS / Reason(s) of Activity: 9/17/07*
☒ defendant knew they were false or *624 Carlson blv. Richmond, Ca.*
☐ defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3. ☒ Concealment

a. Defendant concealed or suppressed material facts ☐ as stated in Attachment FR-3.a ☒ as follows:

UNIT - 143rd FA, First Sgt. Concealed Orders (Standard) from Service member (Plaintiff) SAC Shannon O. Murphy - till a time when discrimination would take place. To cause undue hardship Service member SAC Murphy

b. Defendant concealed or suppressed material facts ☐ defendant was bound to disclose.

☐ by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

(Continued)

SHORT TITLE: <i>Murphy vs US ARMY 143rd Field Artillery</i>	CASE NUMBER:
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CAUSE OF ACTION—Fraud (Continued)

Page

FR-4. ☒ Promise Without Intent to Perform

a. Defendant made a promise about a material matter without any intention of performing it ☐ as stated

in Attachment FR-4.B ☒ as follows:

*Toi Return Service Number
SFC Shannon Q. Murphy S/N. 554-47-1134
back to place of residence 9/17/07
ON OR ABOUT 04*

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in Item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

Yes, Plaintiff was suffering illness and on taking medication, where u

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act ☐ as stated in Attachment FR-5

☐ as follows:

*Plaintiff's
"Residence
where was a part
of defendant's
promise" dispositive
TO Deliver
Plaintiff back to residence
to retrieve
"Medication"*

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged ☐ as stated in

Attachment FR-6 ☒ as follows:

*Discrimination/hardship
family members hardship -
physical/mental distress - to include
loss of confidence in US ARMY*

*UNIT INTENTIONAL
143rd FA S. Battery
Command*

FR-7. Other:

202-982.1(4)

SHORT TITLE: <i>Murphy vs. U.S. ARMY 143rd FA S. Battery</i>	CASE NUMBER:
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CAUSE OF ACTION—Intentional Tort

Page _____

(number)

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): *Shannon O. Murphy*alleges that defendant (name): *U.S. ARMY 143rd FA; S. Battery (Command)*☐ Does _____ to _____

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff

on (date): *9/17/04*at (place): *Richmond, Ca.*

(description of reasons for liability):

- *1. Plaintiff was in fact, instructed to remove self from
 2 place of residence with confidence that a
 3 return home / to residence would take place.
 4 necessary medication and Home/Household Security
 5 were at (harm's) potential and remainable for disposition
 6 unsecure. ~~to~~ include (children) of plaintiff.
 7 by Defendant(s). Namely: *1st Sgt. 143 FA; S. Battery*
9/17/04.
 8 who knew or should have been aware
 9 of his troops' Standard orders disposition to be
 10 distributed abroad his command. In that of
 11 those orders, SPC. Shannon O. Murphy did in fact
 12 have requirement to remain at duty station(s)
 13 to follow further details of those specific orders
 14 This would not allow ~ the terms of
 15 of Defendant to return SPC. Murphy back *SPC. Shannon*
 16 *to place of residence* *O. Murphy*
 17 OR OTHERWISE CONTRADICT *Home*
 18 HIS SAID INTENT TO RETURN *(where child was*
 19 PLAINTIFF TO PLACE OF RESIDENCE *present)*
 20 WITH KNOWLEDGE OF ORDERS FOR *responsibility*
 21 SPC. MURPHY PROPOSED TO BE IN EFFECT.
 22

END

1 Murphy vs. U.S. Army Nat'l Guard

2
3 - Attachment 1: (Introduction)

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7 Before The:
8 Superior Court of California
9 County of Contra Costa

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12 Case No. C07-02065

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14 Shannon O. Murphy

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16 Applicant,

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18 vs.

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20 U.S. Army Nat'l Guard

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22 Defendant,
23 -----/

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27 Comes Now the Plaintiff, Shannon O. Murphy with this complaint,
28 Before the Superior Court of California Contra Costa County, Martinez, Calif.
29 And of due process, this civil matter alleges as follows....

30
31 On or About 9/17/04, SPC. Shannon O. Murphy was asked to remove himself
32 From his place of residence by his former primary units; (143rd FA, Battery-S)
33 First Sergeant, Montano; I Spell as correct my knowledge.
34 I was told that a family deployment orientation gathering was in progress the
35 Unit Armory at 624 Carlson Biv. Richmond, Calif. And that I should attend.
36 I explained that I was still suffering from illness due of residual dental operation
37 I attained the 144th FA. Battery -F, mobilization processing; Operation Iraqi -
38 Freedom. I also stress the fact that I had been taking medication and should
39 Be cautious of that fact. I said I was not feeling well.
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45 (Cont'd)
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Date: 26/06/07

For The:
Superior Court of California
County; (Relevant)

RE: Military waiver of Civilian jurisdiction: (legal relations).

I Shannon O. Murphy a service member of the United States Armed Forces,
Am now to exercise my military allowance for civilian jurisdiction to extend of
The statutes of limitations regarding these court's legal processes and proceedings
Within The Superior Courts of California jurisdiction.

This (waiver) of rights to proceed for due process has been explained to me
By my prior military unit: (143rd Field Artillery, Battery-S command).
The Pre-Combat Mobilization information was of military reference standards,
I interpret to be relevant for application this case matter set forth today.

Of my experience with these types of legal situations there should be
Accessible legal code for conduct documented under Civilian judicial regulations,
Securing that due process of law, remain in place for SPC. Shannon O. Murphy.

Sign: SPC. Shannon O. Murphy (CAARNG)

SPC. Shannon O. Murphy

SUPERIOR COURT -- MARTINEZ
COUNTY OF CONTRA COSTA
MARTINEZ, CA, 94553

MURPHY VS U S ARMY NAT'L GUARD

NOTICE OF CASE MANAGEMENT CONFERENCE

CIVM5C07-02064

1. NOTICE: THE CASE MANAGEMENT CONFERENCE HAS BEEN SCHEDULED FOR:

DATE: 02/05/08 DEPT: 30 TIME: 8:30

THIS FORM, A COPY OF THE NOTICE TO PLAINTIFFS, THE ADR INFORMATION SHEET, A BLANK CASE MANAGEMENT CONFERENCE QUESTIONNAIRE, AND A BLANK STIPULATION FORM ARE TO BE SERVED ON OPPOSING PARTIES. ALL PARTIES SERVED WITH SUMMONS AND COMPLAINT/CROSS-COMPLAINT OR THEIR ATTORNEY OF RECORD MUST APPEAR.

2. You may stipulate to an earlier Case Management Conference. If all parties agree to an early Case Management Conference, please contact the Court Clerk's Office at (925)957-5794 for Unlimited Civil cases and (925)957-5791 for Limited Civil cases for assignment of an earlier date.

3. You must be familiar with the case and be fully prepared to participate effectively in the Case Management Conference and to discuss the suitability of this case for the EAS Program, private mediation, binding or non-binding arbitration, and/or use of a Special Master.

4. At any Case Management Conference the court may make pretrial orders including the following:

- a. an order establishing a discovery schedule
- b. an order referring the case to arbitration
- c. an order transferring the case to limited jurisdiction
- d. an order dismissing fictitious defendants
- e. an order scheduling exchange of expert witness information
- f. an order setting subsequent conference and the trial date
- g. an order consolidating cases
- h. an order severing trial of cross-complaints or bifurcating issues
- i. an order determining when demurrers and motions will be filed

SANCTIONS

If you do not file the Case Management Conference Questionnaire or attend the Case Management Conference or participate effectively in the Conference, the court may impose sanctions (including dismissal of the case and payment of money).

Clerk of the Superior Court of Contra Costa County
I declare under penalty of perjury that I am not a party to this action, and that I delivered or mailed a copy of this notice to the person representing the plaintiff/cross-complainant.

Dated: 09/18/07

C. Green

CATHRYN GREEN, Deputy Clerk

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHANNON O. MURPHY,

Plaintiffs,

v.

UNITED STATES ARMY NATIONAL GUARD,
(CALIFORNIA); BATTERY S, 143RD FIELD
ARTILLERY,

Defendants.

Case No. CV 08-0763 EMC

PROOF OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that on February 1, 2008 she caused a copy of:

- 1) Notice of Removal filed February 1, 2008;
- 2) Order Setting Initial Case Management Conference and ADR Deadlines filed February 1, 2008; Standing Order for Civil Practice in Cases Assigned for all Purposes to Magistrate Judge Edward M. Chen; Standing Order for All Judges of the Northern District of California;

PROOF OF SERVICE
Murphy v. U.S. Army, et al.

- 3) Notice of Assignment of Case to a United States Magistrate Judge for Trial; Consent to Proceed Before a United States Magistrate Judge; Declination to Proceed Before a Magistrate Judge and Request for Reassignment to a United States District Judge;
- 4) ECF Registration Information Handout;
- 5) Welcome To The U.S. District Court, San Francisco; Drop Box Filing Procedures; and
- 6) Proof of Service

to be served upon the persons at the place and addresses stated below, which are the last known addresses:

Mr. Shannon O. Murphy
General Delivery
El Cerrito, California 94530

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 1st day of February 2008 at San Francisco, California.


Diann Lackey
Paralegal Specialist